

Appl. No.: 10/616,956
Amdt. Dated: August 12, 2005
Reply to Office Action of: March 23, 2005

REMARKS/ARGUMENTS

Amendment submitted

Applicant has further amended Claim 25, to incorporate the changes, detailed further below, which were discussed during the telephone interview on July 5, 2005, and which the Examiner indicated would be sufficient to overcome the citations of US 4,181,612 to Trail, and US 4,384,547 to Mattox.

A third reference raised in the Office Action mailed March 23, 2005 in relation to the feature of the telescopic hollow support tube introduced by Claim 26, i.e. US 5,549,075 to Golden, was discussed briefly in the telephone interview. Applicant submits that this reference was cited only in combination with the Trail reference, as modified by Mattox. In view of the current amendment to Claim 25, on which Claim 26 depends, and the expected withdrawal of the citations of Trail and Mattox, Applicant submits that the Golden reference has become moot, and that the citation should be withdrawn.

A fourth reference raised in the Office Action mailed March 23, 2005 in relation to the feature of fixing means introduced by Claim 28, i.e. GB 2,362,798A to Price was not discussed in the telephone interview. Applicant submits that this reference was cited only in combination with the Trail reference, as modified by Mattox. In view of the current amendment to Claim 25, on which Claim 28 depends, and the expected withdrawal of the citations of Trail and Mattox, Applicant submits that the Price reference has become moot, and that the citation should be withdrawn.

Rejection under USC 103(a) based on US 4,181,612 in view of US 4,384,547

The Examiner has rejected Claims 25, 27, 29 -32 as obvious based on US 4,181,612 to Trail in view of US 4,384,547 to Mattox, but indicated during the telephone interview conducted on July 5, 2005, as noted in the Examiner's written summary of the interview,

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that further definition of "the cover member with support for unimpeded access to the feeder from all sides" would overcome Trail as modified by Mattox.

In amended Claim 25 submitted herewith, Applicant has provided the required further definition, in new paragraphs (b) and (c), which now read as follows:

"(b) a cover member having an interior surface;

(c) a plurality of cover support members provided at selected points on the upper surface of the platform to maintain the cover and platform in a spaced-apart relationship and adapted to provide substantially unimpeded access to the upper surface of the platform from all sides;"

Prior to the current amendment, the preamble of Claim 25 clearly stated that the device was an outdoor feeder for wild birds. Thus, the current amendments to the claim, by which the feature of unimpeded access to the feeder platform was added, and the various elements were reordered for clarity, does not add new subject matter to the claim, but clearly distinguishes the invention as claimed from the cited prior art. In any event, Figure 1 clearly shows the added feature of unimpeded access to the feeder platform.

As the Examiner agreed during the telephone interview of July 5, 2005, Trail, either alone or in combination with Mattox, does not disclose or suggest the unimpeded access feature which is entirely unsuitable for, and inconsistent with, the indoor domesticated bird cages of Trail and Mattox, and these two references indeed teach away from this feature of the invention.

Applicant therefore respectfully submits that Claim 25 now clearly distinguishes the invention from the prior art, and requests that the citations of Trail and Mattox be withdrawn. Further, as each of Claims 27, 29 to 32 is dependent on allowable Claim 25, each of these claims should also be found allowable over Trail and Mattox.

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Rejection of Claims 26 and 28 under USC 103(a) based on Trail and Mattox in view of US 5,549,075 and GB 2,362,798A respectively

As noted above, Applicant submits that a finding of allowability of Claim 25 necessarily results in the allowability of each of dependent Claims 26 and 28, so that the citations of US 5,549,075 (Golden) and GB 2,362,798A (Price) are moot.

Conclusion

Applicant respectfully submits that with the entry of the amendments to Claim 25 as submitted herewith, all the Examiner's rejections have now been overcome, and that the application is now in condition for allowance.

We look forward to receiving early confirmation of the same.

A two month extension of time request is being submitted at this time.

Should any further fees or payments be necessary for entry of this amendment and further prosecution of this application, the undersigned hereby authorizes the Commissioner to debit and/or credit our Deposit Account No. 16-0600.

Respectfully Submitted,
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